

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHARLES J. SIEVERT,

Plaintiff,

v.

SAND RIDGE SECURE TREATMENT
CENTER, *et al.*,

Defendants.

ORDER

13-cv-737-wmc
App. No. 14-1056

Plaintiff Charles J. Sievert filed this lawsuit against officials at the Sand Ridge Secure Treatment Center, alleging that he was disciplined without due process for violating facility rules. On December 23, 2013, this court dismissed Sievert's complaint as frivolous. Sievert has now filed a notice of appeal. (Dkt. # 15). Because he has not paid the appellate docketing fee, he presumably requests leave to proceed *in forma pauperis*. That request will be denied.

In determining whether a litigant is eligible to proceed *in forma pauperis* on appeal, the court must find that he is indigent and, in addition, that the appeal is taken in good faith for purposes of Fed. R. App. P. 24(a)(3). *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken *in forma pauperis* if the court certifies in writing that it is not taken in good faith."). Although Sievert has been found eligible to proceed as an indigent litigant previously in this case, the court cannot certify that the appeal is taken in good faith. In that respect, the United States Court of Appeals for the Seventh Circuit has instructed district courts to find bad faith where a plaintiff is appealing claims that have been dismissed as frivolous. *See Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). To

the extent that Sievert is attempting to raise on appeal the same legally frivolous claims he raised in his complaint, the court certifies that the appeal is not taken in good faith for purposes of Fed. R. App. P. 24(a)(3). Accordingly, his request for leave to proceed *in forma pauperis* on appeal must be denied.

ORDER

IT IS ORDERED that:

1. The court CERTIFIES that the appeal is not taken in good faith for purposes of Fed. R. App. P. 24(a)(3).
2. Plaintiff Charles J. Sievert's request for leave to proceed *in forma pauperis* is DENIED.
3. Although this court has certified that the appeal is not taken in good faith under Fed. R. App. P. 24(a)(3), plaintiff is advised that he may challenge this finding pursuant to Fed. R. App. P. 24(a)(5), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Seventh Circuit, within twenty (20) days of the date of this order.

Entered this 13th day of January, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge